

**LOUISVILLE METRO AIR POLLUTION CONTROL DISTRICT
PRELIMINARY REGULATORY IMPACT ASSESSMENT**

REGULATION 5.00 VERSION 2
Definitions

FEBRUARY 20, 2013

Purpose of the Draft Proposed Action:

On July 24, 2012, the District issued an advance Notice of Proposed Rulemaking (NPR) describing proposed revisions to the District's current Part 2 permitting regulations, including the development of Regulation 2.18, *Prohibitory Rule For District-Origin Minor Source Permits*. The District is proposing to revise Regulation 5.00 in lieu of developing Regulation 2.18 at this time.

As explained in the NPR, the District has been exploring a variety of approaches that could be used to streamline its construction and operating permit programs. In general, the draft amendments to Part 2 propose changing the way the District regulates smaller emitting sources in several categories, clarifying existing text, and removing redundant or outdated provisions. The draft amendments also propose revising Regulation 2.08 in support of the proposed changes to the permitting program and to raise additional revenue.

Scope of the Draft Proposed Amendments:

Nearly 140 sources are currently regulated under Regulation 5.21, Environmental Acceptability of Toxic Air Contaminants (TAC), of the STAR Program. The District is proposing to revise Regulation 5.00 section 1.13 to exempt certain small sources from the requirement in Regulation 5.21 to demonstrate the environmental acceptability of their TAC emissions and avoid the increased STAR fees proposed in Regulation 2.08. These small sources will instead be subject to the general duty clause in Regulation 5.01 or evaluation under Regulation 5.30 as area sources of emissions due to their small size, provided they accept a federally enforceable emission limit of 25 tons per year or less of a regulated air pollutant, 5 tons per year of a hazardous air pollutant (HAP) or 12.5 tons per year of combined HAPs. There are no proposed changes to the District's standards or applicable requirements, including the Environmental Acceptability Goals (EAGs) in Regulation 5.21.

Estimated Costs and Savings:

The complexity of determining the environmental acceptability of a stationary source's emissions under Regulation 5.21 is not dependent on the size of the source or its relative

emissions. As a result, the District is proposing to revise the fee for Group 2 stationary sources from \$566 each year to \$5,691, i.e., the same base fee as that charged to Group 1 sources, beginning in FY 2014 for the reasons set forth in the Preliminary Regulatory Impact Assessment for Regulation 2.08.

At the same time, the District is proposing to revise Regulation 5.00 to exempt certain small sources from the definition of “Group 2 stationary source.” The majority of the current Group 2 stationary sources, nearly 88%, have actual emissions less than the thresholds proposed for exemption. As shown on Attachment A, most Group 2 stationary sources have emissions less than 25 tons per year for all pollutants and less than 5 tons per year for emissions of all HAPs combined. Some, but not all of these sources will accept, or have already accepted, the thresholds proposed by the District. In accepting the low proposed thresholds, these small stationary sources will avoid the fee increase proposed in Regulation 2.08. TAC emissions from these sources will remain subject to the general duty clause in Regulation 5.01 and to evaluation under Regulation 5.30 as area sources of emissions. Other small sources will retain or accept higher FEDOOP permit limits for a variety of reasons, including administrative convenience, operational flexibility, future expansion, or market competitiveness. These sources will continue to be defined as “Group 2 stationary sources” and demonstrate the environmental acceptability of their emissions under Regulation 5.21. If adopted by the Board, these sources will pay the proposed increased annual base fee.

The District is also proposing to assess a fee of \$1,500 to review required Environmental Acceptability demonstrations and a fee of \$100 per TAC, up to a total of \$500, for de minimis determinations for both Group 1 and 2 stationary sources. An exempt source may be required to pay these fees if the source is later required to model its emissions or complete a de minimis determination under the general duty clause of Regulation 5.01 or as an area source under Regulation 5.30.

Feasibility of All Alternatives:

The District discussed in the NPR developing a new permit type to distinguish small sources willing to accept the thresholds proposed in Regulation 5.00 section 1.13 from sources permitted under Regulation 2.17. Stationary sources permitted under this new permit type would have avoided the increased STAR fees proposed in Regulation 2.08, been required to meet low emission limits and be regulated under the STAR Program’s general duty clause, Regulation 5.01, rather than Regulation 5.21. The District has subsequently determined that the proposed revision to Regulation 5.00 section 1.13 accomplishes the same results, but reduces confusion over applicable permit types and continues the District’s efforts to streamline its permit program.

Comparison with Any Minimum or Uniform Standards:

There are no minimum or uniform standards governing the District’s STAR program.

Report on Public Outreach Efforts:

This draft proposed Regulation 5.00 Version 2 was proposed for informal external review on December 10, 2012 and formal public comment on February 20, 2013, in lieu of a new Regulation 2.18 and sent to: all members of the Air Pollution Control Board; all persons who have requested to be notified of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality.

The informal public comment period ended on January 24, 2013. The public will have an opportunity to comment during the 30-day public comment period; at a meeting of the appropriate committee of the Air Pollution Control Board; and at a public hearing prior to consideration by the full Board.

Attachment A